

**REMARKS**

Claims 1-6 have been canceled and new claims 7-10 have been added. New claim 7 corresponds to canceled claim 2; new claim 8 corresponds to canceled claim 3, new claim 9 corresponds to canceled claim 5 and new claim 10 corresponds to canceled claim 6. No new matter has been introduced by these amendments. Entry and consideration are respectfully requested.

**The rejection of claim 1 under 35 USC 102 (b) as being anticipated by Shapiro et al U.S. Patent No. 6524601 is respectfully traversed.**

None of the new claims are of the same scope as canceled claim 1. Applicants respectfully request withdrawal of the instant rejection.

**The rejection of claim 1 under 35 USC 102 (b) as being anticipated by Smart et al., U.S. Patent No. 516930 is respectfully traversed.**

None of the new claims are of the same scope as canceled claim 1. Applicants respectfully request withdrawal of the instant rejection.

**The rejection of claim 1 under 35 USC 102 (b) as being anticipated by Stimac et al, U.S. Patent No. 6,280,723 is respectfully traversed.**

None of the new claims are of the same scope as canceled claim 1. Applicants respectfully request withdrawal of the instant rejection.

**The rejection of claims 1-3, as it now pertains to new claims 7-8, as being anticipated by Bradley et al, U.S. Patent No. 6261553, is respectfully traversed.**

The Office draws attention to example 6 *Tenebrio* was infested with *B. bassiana* entomopathogen and this is the claimed composition.

Applicants respectfully submit that Bradley et al fails to anticipate new claims 7 and 8 which are drawn to a composition comprising a pest reducing effective amount of a formulated biological organism-infected hard-bodied cadaver wherein said cadaver is from the family Tenebrionidae (Claim 7) and more specifically *Tenebrio molitor*. Bradley et al in Example 6 describe spraying a *Tenebrio* species with a spray composition containing *Beauveria bassiana*. The *Tenebrio* insects were alive and are not cadavers as required by the instantly claimed invention and the treated insects were not significantly different than the control indicating that they remained alive and were never cadavers. Furthermore, the reference teaches that the fungi could be used in a bait, a liquid spray, a powder; no where does the reference teach using a hard-bodied cadaver of the instantly claimed invention.

The Federal Circuit states that the anticipation determination is viewed from one of ordinary skill in the art and that there must be no difference between the claimed invention and the

reference disclosure as viewed by a person of ordinary skill in the field of the invention, *Scripps Clinic & Research Foundation v. Genentech Inc.*, 927 F. 2d 1565, 18 USPQ2d 1001, 1010, (Fed. Cir. 1991). Anticipation requires the disclosure in a single prior art reference of each element of the claim under consideration. It is not enough, however, that the reference discloses all the claimed elements in isolation.

The rejection is improper. Applicants respectfully request withdrawal of the instant rejection.

It is believed that all of the claims are in condition for allowance. Accordingly, it is respectfully requested that the instant application be allowed to issue. If any issues remain to be resolved, the Examiner is invited to telephone the undersigned at the number below.

In the event this paper is deemed not timely filed, the undersigned hereby petitions for an appropriate extension of time. The fee for such extension may be charged to Deposit Account 50-2134, along with any additional fees which may be required with respect to this paper.

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DATE

Respectfully Submitted,



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CERTIFICATE OF FILING VIA FACSIMILE

The undersigned hereby certifies that the attached **AMENDMENT**, was this day, October 29, 2007, filed in the United States Patent and Trademark Office via facsimile to facsimile number 571-273-8300 Total Pages: 8

